



U.S. Department of Justice

United States Attorney
Southern District of New York

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86 Chambers Street, 3rd floor
New York, New York 10007

May 3, 2023

BY ECF

The Honorable Valerie E. Caproni
United States District Judge
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: *Chen et al. v. Vilsack*,
No. 23 Civ. 1440 (VEC)

Dear Judge Caproni:

This Office represents defendants Tom Vilsack, Secretary of the U.S. Department of Agriculture (“USDA”), and Cindy Long, Administrator of the USDA Food and Nutrition Service, in the above-referenced matter. We write respectfully to request that the Court permit defendants to move to dismiss the complaint by Monday, May 22, 2023. This is defendants’ first request for an extension of their deadline to respond to the complaint, and plaintiffs consent to the request.

In their letter dated April 6, 2023, which sought an adjournment of the initial conference, defendants stated that they would answer or otherwise respond to the complaint by Monday, May 8, 2023. ECF No. 23. Since then, defendants have determined that they will file a motion to dismiss the complaint in lieu of an answer. They also plan to file a similar motion in *Huth v. Vilsack*, No. 23-cv-557 (N.D. Ohio), a case pending in the Northern District of Ohio that involves the same defendants and substantially similar claims concerning the Supplemental Nutrition Assistance Program. Defendants will require additional time to prepare their motion papers in this case and coordinate their filing in the *Huth* case (which is being handled by attorneys in the Department of Justice’s Federal Programs Branch). Accordingly, and with plaintiffs’ consent, we respectfully request permission to move to dismiss by Monday, May 22, 2023.¹

¹ The parties will confer regarding deadlines for plaintiffs’ opposition to the motion to dismiss and defendants’ reply, and intend to submit a joint proposed briefing schedule for the Court’s consideration.

The parties are prepared to appear at the initial conference scheduled for Friday, June 2, 2023, at 10:00 a.m., and to submit a joint pre-conference letter by Thursday, May 25, 2023, *see* ECF No. 24, unless the Court orders otherwise in light of defendants' anticipated motion.

We thank the Court for its consideration of this letter.

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

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Counsel for Defendants

cc: *Plaintiffs' counsel* (by ECF)

Application GRANTED. Defendants must file their motion to dismiss in lieu of an answer not later than **Monday, May 22, 2023**.

SO ORDERED.

 05/03/2023

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE